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5 UNITED STATES DISTRICT COURT  
6 EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 MIGUEL ANGEL TRUJILLO,

11 Defendant.

NO: 2:18-CR-0072-TOR

ORDER GRANTING WITHDRAWAL  
OF GUILTY PLEA AND  
DISMISSING INDICTMENT

12 BEFORE THE COURT is Defendant's Motion to Withdraw and Dismiss  
13 (ECF No. 46). The United States opposed the motion. ECF No. 52. The  
14 Defendant is represented by Colin Prince. George J.C. Jacobs, III appeared on  
15 behalf of the government. The Court has reviewed the files and the record, and is  
16 fully informed. For the following reasons, the Motion (ECF No. 46) is **granted**.

17 DISCUSSION

18 On October 2, 2018, Miguel Angel Trujillo appeared before the Court and  
19 entered a plea of guilty to the Indictment filed on May 1, 2018, charging him with  
20 being a Felon in Possession of a Firearm and Ammunition, in violation of 18

ORDER GRANTING WITHDRAWAL OF GUILTY PLEA AND DISMISSING  
INDICTMENT ~ 1

1 U.S.C. §§ 922(g)(1) and 924. Prior to sentencing, Defendant filed the subject  
2 motion based on the Ninth Circuit’s intervening decision in *United States v.*  
3 *Valencia-Mendoza*, 912 F.3d 1215 (9th Cir. Jan. 10, 2019). In essence, Defendant  
4 contends his two prior state juvenile convictions do not constitute felonies which  
5 would prohibit him from possessing firearms and ammunition under federal law.

6 18 U.S.C. § 922(g) prohibits possession of any firearm or ammunition by  
7 any person “who has been convicted in any court of , a crime punishable by  
8 imprisonment for a term exceeding one year[.]” Previously, courts interpreted that  
9 phrase to refer to the statutory maximum for the underlying offense. *See e.g.*,  
10 *United States v. Murillo*, 422 F.3d 1152 (9th Cir. 2005). *Valencia-Mendoza*,  
11 however, now defines “punishable by” as the sentence to which the defendant is  
12 actually exposed under Washington’s mandatory sentencing scheme, overruling  
13 *Murillo*. *See United States v. McAdory*, \_\_\_ F.3d \_\_\_ (No. 18-30112, August 28,  
14 2019).

15 Here, the parties do not dispute that Defendant was exposed to a maximum  
16 of 30 days in jail under Washington’s mandatory sentencing scheme for each of his  
17 two prior offenses. *See* ECF Nos. 46-1 at 3; 46-2 at 3.

18 Accordingly, Defendant has shown a fair and just reason for withdrawing his  
19 guilty plea, he is innocent of the crime. *United States v. Ortega-Ascanio*, 376 F.3d  
20 879, 883 (9th Cir. 2004) (Fair and just reasons for withdrawal include . . . newly

1 discovered evidence, intervening circumstances, or any other reason for  
2 withdrawing the plea that did not exist when the defendant entered his plea[]”  
3 including “legal innocence.”).

4 **ACCORDINGLY, IT IS HEREBY ORDERED:**

5 1. Defendant’s Motion to Withdraw and Dismiss (ECF No. 46) is **GRANTED**.

6 2. Defendant’s guilty plea to the Indictment filed on May 1, 2018, charging  
7 him with being a Felon in Possession of a Firearm and Ammunition, in  
8 violation of 18 U.S.C. §§ 922(g)(1) and 924 is **WITHDRAWN**.


9 3. The Indictment filed on May 1, 2018, charging Defendant with being a  
10 Felon in Possession of a Firearm and Ammunition, in violation of 18 U.S.C.  
11 §§ 922(g)(1) and 924 is **DISMISSED**.

12 4. All remaining hearings and pre-sentencing release conditions are  
13 **VACATED**; this case is closed.

14 The District Court Clerk is hereby directed to enter this Order and provide  
15 copies to counsel, the United States Probation Office, and the United States  
16 Marshal’s Service.

17 DATED August 30, 2019.



  
THOMAS O. RICE  
Chief United States District Judge